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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,035	04/03/2001	Nobuyuki Tanaka	WN-2316	8744

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EXAMINER
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TRAN, HAI V

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/824,035

Applicant(s)

TANAKA, NOBUYUKI

Examiner

Hai Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 11, 13, 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 14-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/29/2006 has been entered.

### ***Response to Arguments***

Applicant's arguments, with respect to claims 1-10, 12, 14-23, have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Claim 1, line 9, limitation "that decodes **signals**" should be changed to -- that decodes digital contents --.

Applicant is advised to carefully review the claims and to eliminate all such errors/ambiguities. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

Claim 15 defines a –recording medium embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory.

The Examiner suggests amending the claim to embody the computer program on “computer-readable medium” or equivalent in order to make the claim statutory.

For example, the claimed **“A recording medium readable by a computer, tangibly embodying a program instructions executable by the computer to perform a method of reproducing a digital content comprising:”** should be changed to the following:

-- A computer-readable medium embodied with a computer executable instructions being executed by a computer to perform a method of reproducing a digital content comprising:--

Claim 16 defines a –computer program stored in a media . However, the claim does not define a computer-readable medium or memory and is thus non-statutory.

The Examiner suggests amending the claim to embody the computer program on "computer-readable medium" or equivalent in order to make the claim statutory.

For example, the claimed **"A computer program stored in a media and representing a sequence of instructions which, when executed by a processor, cause the processor to perform a method of reproducing a digital content comprising:"** should be changed to the following:

-- A computer-readable medium encoded with a computer executable instructions being executed by a processor to perform a method of reproducing a digital content comprising:--

Claim 17 defines a --program product comprising, computer readable instructions and a recording medium bearing the computer readable instructions. However, the claim does not define what "product" has been positively disclosed as.

The Examiner suggests amending the claim to clearly define what "product" Applicant intends to claim in order to make the claim statutory.

For example, the claimed, **"a program product comprising, computer readable instructions and a recording medium bearing the computer readable instructions, the instructions enabling a computer to perform a method of reproducing a digital content comprising:"** should be changed to the following:

-- a computer program product defining as a computer-readable medium encoded with computer readable instructions being executed by a computer to perform a method of reproducing a digital content comprising:--

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 12, 14-15 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morley et al. (WO 99/59335) in view of Kandasamy et al. (US 5513314).

Claim 1, Morley discloses a digital content reproducing system (2A-B) comprising:

A movie company terminal, which stores and manages a digital content of movies (see el. 108, Fig. 3; Fig. 2A);

A content delivery terminal in communication with the movie company terminal via a network (see Fig. 2A; Fig. 5); and

A projecting system (theater system; Fig. 2B and Fig. 7) which is connected to the content delivery terminal via the network, receives the digital content from the content delivery terminal via the network, and reproduces the digital content to show a movie, wherein the projecting system comprises:

A reproducing device (Fig. 2B; el. 130A)

Morley does not disclose "a backup device that decodes the signals (digital contents) while the reproducing device periodically sends a 1<sup>st</sup> predetermined signal to the backup reproducing device, and starts processing the decoded

digital content when the reproducing device stops sending the 1<sup>st</sup> predetermined signal.”

Kandasamy discloses a fault tolerance system that include a primary server and a backup server that is mirrored to each other, for example the backup server continuously decodes and stores the same received data stored on the primary server, while the primary server (reproducing device) periodically sends a 1<sup>st</sup> predetermined signal (heart beat datagram) to the backup server (Col. 12, lines 46-Col. 13, lines 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Morley with the fault-tolerance system, as taught by Kandasamy so to provide a robust fault-tolerance system with zero down time of services and uninterrupted service, as suggested by Kandasamy (see Summary of the invention).

Claims 12, 14, 15 are analyzed with respect to claim 1.

Claim 18 is analyzed with respect to claim 1.

Claim 19, limitation “wherein the backup reproducing device sends a 2<sup>nd</sup> predetermined signal, to the reproducing device stopping the sending of the 1<sup>st</sup> predetermined signal” is further met by Kandasamy (Col. 13, lines 47-50).

Claim 20, limitation “ wherein the reproducing device stops sending decoded signals in response to receiving the 2<sup>nd</sup> predetermined signal” is further met by the analysis of claims 1 and 19.

Claim 21, limitation “wherein the backup reproducing device decrypts signals while the reproducing device periodically sends a 1<sup>st</sup> predetermined

signal to the backup device" is further met by the combination of Morley in view of Kandasamy, as discussed in claim 1, for the benefit of real-time synchronization of providing uninterrupted decrypted video signal in case of failure of the reproducing device.

Claim 22 is analyzed with respect to claim 1.

Claim 23, limitation "wherein the backup reproducing device starts outputting the digital content in response to a stop of the 1<sup>st</sup> predetermined signal" is further met by analysis of Kandasamy in claim 1.

2. Claim 2-10, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morley et al. (WO 99/59335) in view of Kandasamy et al. (US 5513314), and further in view of Takamori (US 5287186).

Claim 2, Morley in view of Kandasamy further discloses wherein the projecting system further comprises a mass memory which stores the digital content supplied via the network (see Morley, Fig. 2B, el. 123);

Morley in view of Kandasamy does not clearly disclose an audio-visual input switching device that receives the output signals from the reproducing device and the backup reproducing device and that selects the output signals from an active one of the reproducing device and the backup reproducing device to produce the select output signals.

Takamori discloses the use of an audio-visual input switching device that receives the output signals (video and audio) from different sources and that



selects the output signals from an active one of the source and the backup source to produce the select output signals (see Fig. 1; Col. 2, lines 4-50).

Therefore, it would have been obvious to one of ordinary skill inputs the art at the time the invention was made to modify Morley in view of Kandasamy with the teaching of Takamori of using an video/audio switching unit so to selectively outputting input video and audio signal from among the plurality of video-audio inputs in case one of the of audio-video inputs is interrupted (see Col. 1, Summary of the invention).

Claim 3, Morley in view of Kandasamy and Takamori further discloses wherein the projecting system further comprises:

A projecting device which receives the video signals from the audio-visual switching device and projects them on a screen; and an audio processor which receives the audio signals from the audio-visual switching device and output them to the loudspeaker (see Morley, Fig. 11).

Claim 4, limitation "wherein the reproducing device and the backup reproducing device comprise the same elements and each of the devices ..." is further met by the teaching of the combination of Morley in view of Kandasamy and Takamori because of the nature of the fault tolerance protocol disclosed by Kandasamy (Col. 10, lines 1-12) in which every element/module claimed, i.e., An

encrypted module, an audio-visual separating module, a video decoder..., is disclosed by Morley;

Claim 5, limitation "wherein the backup reproducing device decodes the signals at the video decoder and the audio decoder while the reproducing device periodically sends a 1<sup>st</sup> predetermined signal to the backup reproducing device, and wherein the backup reproducing device starts a sending process of the decoded signals to the audio-visual input switching device in addition to the decoding process when the reproducing device stops sending the 1<sup>st</sup> predetermined signal" Is further met as discussed in claims 1 and 2.

Claim 6, limitation "wherein the backup reproducing device sends a 2<sup>nd</sup> predetermined signal, to instruct the reproducing device to stop" is further met by Kandasamy (Col. 13, lines 47-50) after the backup reproducing device starts the sending process.

Claim 7, limitation "wherein the digital content is individually supplied in the form of video data and audio data, and wherein the reproducing device and the backup reproducing device comprise the same elements and each of the devices comprises a video data processing section and an audio processing section ..." is further met by the teaching of the combination of Morley in view of Kandasamy and Takamori because of the nature of the fault tolerance protocol

disclosed by Kandasamy (Col. 10, lines 1-12) in which every element/module claimed, i.e., 1<sup>st</sup> decrypted module ; A video decoder ; An audio decoder, is disclosed by Morley; and limitation "A video signal output device which receives the decoded video signals from the video decoder and outputs them to the audio-visual input switching device" and "An audio signal output device which receives the decoded audio signals from the audio decoder and outputs them to the audio-visual input switching device" is further met by the teaching of Takamori.

Claim 8, limitation "wherein the video signal output device supplies the decoded video signals to the projecting device other than through the audio-visual input switching device when the audio-visual input switching device receives the audio signal and wherein the audio signal output device supplies the decoded audio signals to the audio processor other than through the audio-visual input switching device when the audio-visual input switching device receives the video signal" is further met by the combination of Morley in view of Kandasamy and Takamori, as discussed in claim 2.

Claim 9, limitation "wherein the backup reproducing device decodes the signals at the video decoder and the audio decoder while the reproducing device periodically sends the 1<sup>st</sup> predetermined signal to the backup reproducing device, and wherein the backup reproducing device starts a sending process of the decoded signals to the audio-visual input switching device in addition to the

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decoding process when the reproducing device stops sending the 1<sup>st</sup> predetermined signals” is further met by the combination of Morley in view of Kandasamy and Takamori, as discussed in claim 2.

Claim 10, limitation “wherein the backup reproducing device sends a 2<sup>nd</sup> predetermined signal, to instruct the (1<sup>st</sup>) reproducing device to stop” is further met by Kandasamy (Col. 13, lines 47-50), after the backup reproducing starts the sending process.

Claims 16-17 are analyzed with respect to claims 1 and 2.

Claim 18 is analyzed with respect to claim 6.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT:ht  
12/22/2006

  
**HAI TRAN**  
**PRIMARY EXAMINER**